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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/088,682	07/09/2002	Antonius Emmerink	449122025400	4834
25227 7590 07/05/2007 MORRISON & FOERSTER LLP 1650 TYSONS BOULEVARD SUITE 400 MCLEAN, VA 22102			EXAMINER JAIN, RAJ K	
			ART UNIT 2616	PAPER NUMBER
			MAIL DATE 07/05/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/088,682

Applicant(s)

EMMERINK ET AL.

Examiner

Raj K. Jain

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 4/17/07.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2,5,10-15 and 19-21 is/are rejected.
- 7) ☒ Claim(s) 3,4,6-9 and 16-18 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09 July 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 2, 5, 10-15 and 19-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shiimoto et al (US006731628B1) in view of Rao et al (US006757823B1).

Regarding claims 1 and 10, Shiimoto discloses providing a communications link (Fig. 1) between at least two local devices TE-1, TE-2 in a transport network by local switching (LS) centers associated with the local devices (TE);

using a connection information item defining a timeslot connection (see abstract, col 2 lines 10-20, 40-50, timeslot information is created to define the routing of packets which is the information item for connection of the link.) via a switching matrix representing a first control information item; and providing a protocol information item representing a second control information item for the central control device and/or for the local devices to select communications protocols to be used and useable transport media (The header of the packet contains IP protocol information that contains the packet routing information, see claim 1.)

Shiimoto fails to disclose communications system setup and/or disconnect of communications link.

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Rao discloses a method of providing secure signaling connections for packet data network telephony calls (see Fig. 3 and col 1 line 65 – col 2 line 5. Call setup is performed between H.323 devices such as phones and protocol conversion control performed via the H.323 gateways (Fig. 1). Rao discloses a simplified and secure call setup and tear down procedure for voice and data communications amongst different devices within an IP telephony network.

Thus it would have been obvious at the time the invention was made to incorporate the teachings of Rao within Shiomoto so as to provide a simplified and secure call setup and tear down procedure for voice and data communications amongst different devices within an IP telephony network.

Regarding claims 2 and 11, Shiomoto discloses media information via the routing tables (see col 3 lines 40-50.) used by the local and transit switches to route packets from source to destination.

Regarding claim 5, Shiomoto discloses the information item (see abstract) as the timeslot connection information is provided to the LS and TS switches accordingly.

Regarding claims 12 and 13, Shiomoto discloses devices may be arranged centrally and/or locally in the area of the first device (see Fig. 1).

Regarding claims 14, Rao discloses conversion devices (Gateways see Fig. 1).

Regarding claims 15, Shiomoto discloses a general circuit switched network. The use of an Ethernet connection is inherent to the network as TE devices are shown in Fig. 1.

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Regarding claims 19-21, Shiimoto and Rao disclose an integrated communications IP telephony system with a PC (Fig. 1 of Shiimoto) or a telephone (Fig. 1 of Rao) accordingly.

Allowable Subject Matter

Claims 3, 4, 6-9, 16-18 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

Applicant's arguments filed 17 April 2007 have been fully considered but they are not persuasive.

With respect to claim 1, applicant contends the cited references fail to teach "communications system setup and/or disconnect of communications link".

The examiner respectfully disagrees, while Shiimoto does not disclose this limitation, Rao cures this deficiency. Rao discloses a method of providing secure signaling connections for packet data network telephony calls (see Fig. 3 and col 1 line 65 – col 2 line 5. Call setup is performed between H.323 devices such as phones and protocol conversion control performed via the H.323 gateways (Fig. 1). *H.323 is an ITU standard defining a set of call control, channel setup, and codec specifications for transmitting real-time audio and video over packet data networks, (col 2 lines 58-61)* emphasis added. The H.323 gateway serves as the "device" by which the "controlling"

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functionality of the H.323 protocol is achieved. Thus Shimoto in combination with Rao clearly and explicitly disclose the cited limitation of applicant's claims and therefore the rejection for claim 1 is sustained.

With respect to motivation for combining, Examiner believes the motivation to be proper and therefore disagrees with the applicant. According to MPEP 2144 [R-5] here in part;

"The reason or motivation to modify the reference may often suggest what the inventor has done, but for a different purpose or to solve a different problem. It is not necessary that the prior art suggest the combination to achieve the same advantage or result discovered by applicant (emphasis added)."

Thus again the examiner fully believes that the reasons for combining are valid since it improves network efficiency and therefore the rejection is sustained.

Furthermore, applicant contends in the page 7 of the "Remarks" here in part:

".....applicants submit that one of ordinary skill in the art would not have been motivated to modify Shiimoto in view of Rao because Rao teaches a setup method for secure communications. This requires steps beyond simple setup steps, which leads to overhead. Shiimoto itself teaches that such overhead is undesirable (see Background of the Invention)."

The Examiner failed to find where Shiimoto discloses "overhead is undesirable" in the (Background of the Invention). Thus applicant's contention is moot.

Once again, the rejection under 35 U.S.C. 103(a) as being unpatentable over Shiimoto et al in view of Rao et al fully discloses all limitations of applicant's claim 1 and therefore the rejection is sustained.

Claim 10 for same reasons as claim 1 is also not patentable. The remaining claims are either properly rejected due to their respective dependencies or stated as allowable.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Raj K. Jain whose telephone number is 571-272-3145. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chi Pham can be reached on 571-272-3179. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only.

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For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Raj K. Jain
/Raj K. Jain/

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July 2, 2007